IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 27646 of 2007(N)

AC.146/2004 in E.P. 68/05 of MUNI-MAGI COURT, DEVIKULAM
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PETITIONER:

P.P.ALIYAS, S/O PAILY,
PARANAYIL HOUSE, RAJAKUMARI P.O.,
IDUKKI DIST.

BY ADV. SRI.C.J.JOY
SRI.K.K.VIVEKANANDAN
SRI.KURIAKOSE G.THEKKEL

RESPONDENT:

IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
RAJAKKAD BRANCH REPRESENTED BY ITS MANAGER,
RAJAKKAD P.O., IDUKKI DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 27646 OF 2007

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Dated this the 18th day of September, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order in E.P.68/05 whereby the Court ordered arrest of the judgment debtor. A loan was secured by pledging the property of the mother as collateral security which is having an extent of 1.5 acres. The mother died and there are five legal representatives for the mother. Or in other words, the petitioner is only having a fractional interest over the property. He had produced documents before Court to show that his wife was suffering from ailment and there was total loss of crops and had approached the Kerala State Debt Relief Commission. When such documents are produced before Court it requires consideration by the Court. I feel that the judgment debtor should have entered the box and tendered evidence. The learned counsel for the writ petitioner submits before me that he is only having a fractional interest in the property and it may not be very

easy for him to sell it without the junction of the other co-shares and therefore he prays for a breathing time as well. Taking into consideration all the matters I set aside the order of the learned Munsiff and direct him to consider it afresh after giving opportunity to both the sides to adduce evidence in support of their respective contentions. The decree holder may also consider the question whether he can proceed against the collateral security or give some time to the judgment debtor if he really shows earnest interest in making payment by at least tendering a reasonable amount. Both the parties are directed to appear before Court on 23/10/07.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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